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Dated: June 3, 2010
Electronic Signature for Kari Lynn Barnes: /Kari Lynn Barnes/

Docket No.: 568-PDD-01-10-US-[6P]
(PATENT)
EFS-WEB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Thiemo Blank

Allowed: May 3, 2010

Application No.: 10/507,347

Confirmation No.: 3786

Filed: January 11, 2006

Art Unit: 3731

For: METAL STRUCTURE COMPATIBLE
WITH MRI IMAGING, AND METHOD
OF MANUFACTURING SUCH A
STRUCTURE

Examiner: S. A. Simpson

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE AND
STATEMENT ON SUBSTANCE OF INTERVIEW**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant has received the Examiner's Statement of Reasons for Allowance with the May 3, 2010 Notice of Allowance and Allowability regarding the above-identified application. Entry of the Statement into the record should not be construed as any agreement with or acquiescence in the reasoning stated by the Examiner. Each of the claims stands on its own merits and is patentable because of the combination it recites and not because of the presence or absence of any one particular element.

The Examiner's Statement was not prepared by Applicant and only contains the Examiner's possible positions in one or more reasons for allowability. Thus, any interpretation with respect to the Examiner's Statement of Reasons for Allowance should not be imputed to the Applicant. Applicant notes that the statement "[t]he rings could not be rearranged because gold has an

electrical conductivity which is greater than that of nickel titanium alloy” is not a position argued by Applicant.

With respect to the conductivity of the rings, and the assertion that it would have been obvious to one of ordinary skill in the art to modify the device to include a portion having a second electrical conductivity at least an order of magnitude lower than the first electrical conductivity, as it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art, Applicant stated as follows:

Frantzen shows and describes radiopaque marker elements for attachment to ends of a radially expandable surgical stent. Each radiopaque marker element is homogeneously formed from a radiopaque material to enhance the visibility of the stent when the stent is viewed with a medical imaging device, such as a fluoroscope. (Frantzen, Abstract.) The Frantzen stent and markers are specifically designed to overcome the deficiency in the art for a radially expandable stent featuring radiopaque markers which can be utilized on stents of different sizes, and not interfere with the expansion of the stent, while providing a clear image on a fluoroscope or other medical imaging device. (Frantzen, col. 2, ll. 21-28.) Frantzen describes stents formed from stainless steel or nickel titanium alloy, while the markers are formed of gold, silver, and similar materials known to exhibit radiopacity when viewed through a medical imaging device. (Frantzen, col. 1, ll. 52-53; col. 8, ll. 2-8.) Nowhere does Frantzen identify the conductivity of the materials used or any result effected by the conductivity of the identified materials. Thus, discovering an optimum value of a result effective variable, i.e. the conductivity of the chosen material, does not involve only routine skill in the art as asserted by the Office.

(Arguments In Support Of Pre-Appeal Brief
Request For Review dated April 14, 2010, p. 4)

Statement on Substance of Interview

Attached to the Notice of Allowance was an Interview Summary (PTOL-413), which requires a Statement within one month of the mailing date thereof. Applicant believes that filing a Statement is generally unnecessary when the Interview Summary accompanies a Notice of Allowance. However, because form PTOL-413B was not attached with an indication that a separate record of the interview is not required, Applicant, in the abundance of caution, submits the following Statement herewith.

An Interview was conducted via telephone on April 21, 2010, between the undersigned and Examiner Sarah A. Simpson. An agreement was reached to amend claims 25 and 44 to include “each of the rings” after “one bridge strut and” in lines 7 and 6, respectively, in order to place the case in condition for allowance. An agreement also was reached with respect to the submission of formal drawings, which will be filed under separate cover before payment of the Issue Fee.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2191, under Order No. 101671.0006P from which the undersigned is authorized to draw.

Dated: June 3, 2010

Respectfully submitted,

Electronic signature: /Todd W. Wight/
Todd W. Wight

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